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[1904]

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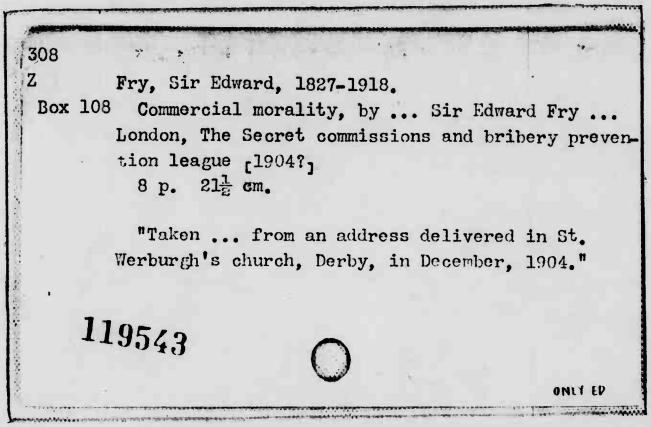

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COMMERCIAL MORALITY

BY

THE RIGHT HON.

Sir EDWARD FRY, G.C.B.

(President of the Secret Commissions and Bribery Prevention League, Incorporated.)

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Box 108

To cleanse our commercial and professional life of the foulness of bribery and corruption will require . . . the co-operation of all men who love pure and clean hands.—*Sir E. Fry.*

Published by

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COMMERCIAL MORALITY.

BY THE

Right Hon. Sir Edward Fry, G.C.B.

[Taken, by permission, from an address delivered in St. Werburgh's Church, Derby, in December, 1904.]

WHEN we come to the relation of buyer and seller, we come upon a region where dishonesty of one form or another plays a great part. "As a nail sticketh fast in the joinings of the stones, so doth sin stick close between buying and selling," says the author of the Book of Ecclesiasticus (xxvii. 2), and I fear that in this respect the world is not far different now from what it was in the days of the old Jewish moralist. One of the great sources of pollution in the transactions of commerce is the prevalence of gifts by the purchaser to the agent of the seller, or of the seller to the agent of the buyer.

Transactions of this class are characterized by two features —they involve the attempt to serve two masters and they are secret. They are bad on both accounts, and that separately, but their greatest evil is their secrecy. If my coachman secretly receives from the hay dealer to whom he sends my orders a commission on the amount of my account, he wrongs me deeply. If I know of his receiving the money, and consent to it, he cannot be said to wrong me; but I may be justly said to wrong him, for the percentage tempts him, or has a tendency to tempt him, to order more hay than I require, and I have no right to place him under that temptation; I have no right to give occasion to a conflict between his duty to me to order only what is needful and his interest in obtaining the largest amount of commission. No man can complain of his servant, or agent, who receives such payments with his consent; but no man ought to consent to practices which render the duty of faithful and single-eyed service more difficult.

The law of this country—and, I suppose, of all civilized countries—takes notice of payments of the kind I have described, and holds them to be unlawful; and, according to our law, every agent who receives anything in relation to, or

in connexion with, the subject of his agency, is bound to pay it over to his principal. "It is required in stewards that a man be found faithful" (1 Cor. iv. 2), "A man cannot serve two masters" (Matt. vi. 24), are as much parts of the law as of the Gospel, and cover a great area of decisions in our courts.

The practice often rests on the offer of the bribe by the person who desires to ingratiate himself or his goods with the agent of the purchaser; as frequently, perhaps, the bribe is demanded by the agent, who insists upon being bribed—and I do not know that there is much to choose, in point of immorality, between the two forms of corruption. What makes the latter kind, perhaps, the more mischievous is that it is often the result of combination; and a man who refuses to pay blackmail to one agent has, as it were, a black mark put against his name. "The servant, or agent, who demands a commission and fails to receive it, not infrequently warns his fellows in the same position in the trade against the honest trader, who thus finds himself shut out from dealings with a whole circle of firms." (Report of Committee of London Chamber of Commerce.)

The opportunity which many employees possess of condemning goods if they have not been satisfied in the matter of blackmail is very extensive. Very often the selection of the goods and the ordering of them is entirely in the hands of the man employed by the firm as buyer; very often the master acts implicitly on the report of his servant as to the quality of the goods delivered, and cases have been mentioned in which a dyer has actually thrown a deleterious ingredient into the vats, in order to damn the dye on which an inadequate commission, or none at all, had been allowed by the more or less honest vendor.

When, on the other hand, the bribe is offered, it is presented under a variety of names adapted to conceal its real nature, and to lull the conscience of the recipient. A percentage on a bill is often offered to a servant under the name of a discount—a name with an honest sound about it, and perfectly honest when it is allowed to the payer himself. And the pleasant and old-fashioned name of Christmas-box has covered disgraceful bribes offered to bank managers or other persons in a position to help the donor. But a bribe stinks as foully by that or any other name.

It is not needful for me to dwell on the evil of these practices regarded from the moral view. They are evils, also, from the lower point of view of material progress. They interpose a great difficulty in the way of the introduction to public use of new materials or new inventions, where those who are interested in such things are unwilling to bribe. I am assured that there are branches of trade into which no honest man dare enter, and that there are persons whom no new article can reach, except by the use of the golden key of bribery applied to their subordinates. It is needless to observe that whatever lessens confidence between man and man tends to check the legitimate development of trade and manufactures.

This system is as cruel as it is degrading. It exposes the young and inexperienced in the various callings of life to severe temptations and all the miseries that flow from the conflict between conscience and self-interest, or cowardice. Too often the man yields to the temptation or to the pressure, and lives henceforth with a seared conscience; but where he resists, the consequences are often sad and hard to bear. "I have known," wrote Mr. Holyoake (*The Co-operative News*, December 2, 1899), "many cases in which persons have been ruined by an obstinate preference for honesty. I have known the income of many families seriously diminished and (the families) in some cases brought to destitution through perilous rectitude in trade." And, if I may speak for myself, I will add that the communications which I have received from various persons go far to confirm this sad picture, and have stamped on my mind a vivid image of the cruelty of these practices.

I could, if need were, and if time allowed, give you startling illustrations of the extent to which the practice in question has gone. Perhaps none are more oppressive or more cruel than those in which machinery or other valuable articles have been made to order, and one term of the contract stipulates that they shall be approved by a person named, and that person absolutely refuses to pass the goods until he is appeased by a gift. I have heard of cases in which the things offered met with an unqualified refusal until a certain sum had been paid, and then they met with an equally unqualified acceptance. I do not believe that I can be contradicted when I say that such things as these are not uncommon. That they are not universal I am thankful to add.

But, bad as these things are, they find apologists. And, first, let me candidly admit that I believe that many persons accept percentages—and, perhaps, some other form of presents—without any consciousness of the evil of the system. "Everybody does it, and I saw no harm in it," is often a truthful and honest apology, and reminds one of the fact that an intellectual obscurity has something to do with the practice in some of its less heinous forms.

Another, and a less genuine, line of defence is the assertion that the gift is not made with any intention to bias the recipient, or that the recipient is not biased by it, and does his duty to his master in spite of it. This ignores the real point of the matter. To say whether the bribe has or has not operated on the mind of the recipient is a metaphysical inquiry, which it is difficult for the man himself, and often impossible for others, to answer; to say what is the tendency of a bribe is a matter of no difficulty; and in all transactions of this sort, often obscured and embarassed by the complications of modern commercial life, the true inquiry is: Has the payment (made under whatever name it may be—of gratuity, of Christmas-box, of discount, of percentage, of capitation fee)—has it a tendency to blind the eyes of the receiver, to make him less vigilant for his master than he ought to be, to look with more favour on the giver than on others who are not givers of like gifts? If this tendency be found to exist, the transaction is to be condemned—however innocent may have been the intentions of the donor, however untainted may have remained the mind of the recipient.

I need hardly add that the way in which the attack on these secret payments is generally met is by writing a mass of irrelevant statements round about the subject; and, if evidence be adduced to show that members of a particular trade or profession have been bribed, it is met by evidence that other members have not been bribed.

One of the irrelevances continually put forward bears the name of "the custom of the trade"—and many payments are justified on this score. Of course where there is a real and consistent custom which is known and assented to by all parties interested, there is no secrecy, and to that extent no harm in the payment; but the knowledge possessed by those who receive the payments often does not extend to those who are injured by them. Furthermore, it must be remembered

that to know of a wrong and not to resist it is by no means always to consent to it. I may know that the shopkeeper with whom I deal cheats me, but, if it is the only shop in my village, I may still be practically forced to deal there. I may know that my servant does wrong, and may submit to it, because I may be worse off in other ways by resistance. Some acquiescence is voluntary; some is the result of a compulsion more or less cogent.

One cause which has tended to foster in the present state of society these secret payments is the increased complexity of business transactions, and, as a result, the increased part of agents and managers in the conduct of business.

Take a simple village community, where the shoemaker himself makes the shoes for his neighbours, and the builder himself, with the help of a man or a boy, builds the small cottages, or puts up the pig-sties, and we see that the relations between the employer and the employed are simple and direct—that there is, so to speak, only one joint where there can be any friction, and that there is no opportunity for a secret payment. Contrast with that the building of a great house in modern fashion, where you have the building owner, the architect, the quantity surveyor, the clerk of the works, the contracting builder, sub-contractors for parts, and tradesmen who supply the mantlepieces, or the fittings. Here you have greatly increased the joints or points of contact—points, therefore, of possible friction, and equally points of possible lubrication. The temptations in the primitive state can hardly exist; in the complicated case these may be cogent.

Closely connected with this is the great increase in the part which agency fills in modern business life. A small manufacturer who looked after all his operatives was, so to speak, his own manager and foreman, and conducted his own purchases and sales, and was always accessible to his customers; he had no one about his place to whom it was worth while to offer a bribe. But his business has, let us say, prospered and grown, and is now a limited company on a large scale, with its chairman, manager, secretary, salesmen and buyers, and hosts of subordinate officials. If a man wants to sell goods to such a company, or to introduce for their adoption some invention which he has made, the goodwill of some or all of these officials may be most important

to him—may make all the difference between success and failure in his object; and here the temptation to offer a secret payment is vastly increased.

Not very different from the cases of bribing the agent are cases of bribing an adviser. Whoever undertakes to give advice to another should do so in the interest only of the person he advises, and without any prospect of gain to himself from the advice; and yet, sad to say, perpetual attempts are made to bribe the adviser. For instance, recently a lady started some quack medicine, and by a circular offered the clergy a percentage on all sales made through their recommendations; but more important cases are of constant occurrence. Solicitors not infrequently recommend particular insurance offices, from which they receive a commission; some medical men take like payments from chemists, to whom they recommend their patients to resort. Stockbrokers recommend investments from which they reap profits. Of course, if the person advised knows that the advice given is tainted by the self-interest of the adviser, the case is different; but in a great majority of instances this is by no means known.

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